

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

YVONNE M. WEST, individually :
and as administrator of the estate of :
Jamon West, :

Plaintiff, :

V. ⋮

DEKALB COUNTY, GEORGIA, et al., :

Defendants. :

CIVIL ACTION NO.
1:23-cv-01907-LMM

ORDER

This action is now before the Court following remand from the Eleventh Circuit for lack of appellate jurisdiction. After due consideration, the Court enters the following Order.

I. AMENDMENT TO ORDER ON DEFENDANTS' MOTIONS TO DISMISS

In an Order entered on February 2, 2024, the Court granted the motions to dismiss filed by Defendants DeKalb County, Georgia; DeKalb County Police Sgt. M. Williams; Officers Timothy Lattimore, C. Jones, and Deion Paxton; DeKalb County Fire Rescue Captain Phillip Ditmore; Senior Firefighter David Kelley; Senior Firefighter Jason Winkler; Firefighter Tiffany Payne; and Melissa Van Wie, and it directed the Clerk to close the case. Dkt. No. [66] (granting the

motions filed at Dkt. Nos. [41, 43, 57]). Accordingly, the Clerk entered judgment in favor of Defendants against Plaintiff; dismissed the action; and closed the case. Dkt. No. [67].

The Order inadvertently failed to address the claims that remained pending against Defendant Kevin Fleming, Firefighter Jonah Lakatos, Officer Brandon W. Williams, and Officer Joshua Burton. Thus, the Court **AMENDS** the Order, Dkt. No. [66], to dismiss only Defendants DeKalb County, Georgia; DeKalb County Police Sgt. M. Williams; Officers Timothy Lattimore, C. Jones, and Deion Paxton; DeKalb County Fire Rescue Captain Phillip Ditmore; Senior Firefighter David Kelley; Senior Firefighter Jason Winkler; Firefighter Tiffany Payne; and Melissa Van Wie. The Court also **VACATES** the Order, Dkt. No. [66], so far as it directs the Clerk to close the case and **VACATES** the Clerk's entry of judgment, Dkt. No. [67]. The Clerk is **DIRECTED** to amend the docket accordingly.

II. DEFENDANT KEVIN FLEMING'S MOTION TO DISMISS

Pursuant to the direction of the Court, the parties conferred and agreed upon a schedule for resolving outstanding issues. See Dkt. No. [79]. Having considered the parties' submission, and in order to secure the just, speedy, and inexpensive determination of the action, it is hereby **ORDERED** that:

Defendant Fleming's motion to dismiss, Dkt. No. [68], is deemed Fleming's timely response to Plaintiff's amended complaint, Dkt. No. [28]. Plaintiff shall have through **Thursday, August 15, 2024**, to file a response to the motion,

and Fleming shall have through **Thursday, August 29, 2024**, to file a reply. Given the age of the motion, NO extensions will be granted.


III. DISMISSAL OF UNSERVED DEFENDANTS

The parties have agreed that Plaintiff's time to serve any unserved defendants is expired. See Dkt. No. [79]. There is no proof of effective service of process in the record as to Defendants Firefighter Jonah Lakatos, Officer Brandon W. Williams, or Officer Joshua Burton. Accordingly, those defendants are **DISMISSED** from this action.

IV. CONCLUSION

The Court's Order dated February 2, 2024, Dkt. No. [66], is **AMENDED** and **VACATED IN PART**, and the Clerk's entry of judgment, Dkt. No. [67], is **VACATED**, as set out in Part I of this Order. The Clerk is **DIRECTED** to **REOPEN** the case. All defendants except for Defendant Kevin Fleming are **DISMISSED** from this action. Fleming's motion to dismiss, Dkt. No. [68], shall be briefed pursuant to the schedule set out in Part II of this Order. No extensions will be granted.

IT IS SO ORDERED this 1st day of August, 2024.


LEIGH MARTIN MAY
UNITED STATES DISTRICT JUDGE